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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
I-2-0427.1US

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Application Number	Filed
10/688,223	October 16, 2003

First Named Inventor
Stephen G. Dick

Art Unit	Examiner
2618	Fayyaz Alam

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record. Registration number 47,942.

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

/Darryl W. Shorter/
Signature

Darryl W. Shorter
Typed or printed name

215-568-6400
Telephone number

March 24, 2010
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the **PATENT APPLICATION** of: Dick et al.	
Application No.: 10/688,223	Our File: I-2-0427.1US
Confirmation No.: 9473	Date: March 24, 2010
Filed: October 16, 2003	
For: POWER CONTROL FOR COMMUNICATIONS SYSTEMS UTILIZING HIGH SPEED SHARED CHANNELS	
Group: 2618	
Examiner: Fayyaz Alam	

ARGUMENTS ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF (Via EFS)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Pre-Appeal Brief Review is hereby requested in the above identified patent application, for the reason that the Examiner has not cited a reference which discloses Applicant's claimed method.

In the Office Action, claims 39-44 are rejected under 35 U.S.C. § 103(a) as obvious over PCT Publication No. WO02/065667 to Willenegger et al. (hereinafter Willenegger in view of U.S. Patent No. 6,400,960 to Dominique et al. (hereinafter Dominique) and further in view of U.S. Patent No. 6,711,150 to Vanghi.

Claim 39 is directed to a serving wireless transmit receive unit (WTRU) for implementing transmission power control for other WTRUs, wherein the serving WTRU receives data signals on an uplink dedicated channel (UL DCH) and sporadically receives data signals on an associated uplink shared channel (UL SCH), and recites in part:

> a receiver for receiving UL user data from another WTRU on an UL DCH and at least one UL SCH;
> a processor for computing UL DCH target metrics based on the received UL user data on the UL DCH associated with the UL SCH used by the other WTRU; and
> a shared channel target metric generator configured to output a respective UL SCH target metric derived from each computed UL DCH target metric for use in computing UL channel power adjustments by the other WTRU.

To support the rejection of independent claim 39, the Examiner cites Willenegger. The Examiner, though, admits that Willenegger fails to disclose a shared channel target metric generator configured to output a respective UL SCH target metric derived from a target metric computed for the UL DCH associated with the UL SCH, as claimed in Applicants' claims 39 and 42.

The Examiner, to make up for the admitted deficiency in Willenegger, cites Dominique. Dominique discloses a system wherein a user equipment's (UE's) power threshold levels for a primary channel and associated secondary channel are established by the UE from power threshold information received by the user

equipment over the primary channel. See Dominique, column 7, lines 56-67. As clearly indicated in Dominque, Dominique discloses a UE establishing its power threshold level for the primary channel and the secondary channel. Dominique does not disclose a serving WTRU for implementing transmission power control for other WTRUs, including a processor for computing uplink DCH target metrics based on the received uplink user data on the uplink dedicated channel associated with the uplink shared channel used by the other WTRU, nor does Dominique disclose a shared channel target metric generator configured to output a respective uplink shared channel target metric derived from each computed uplink dedicated channel target metric for use in computing uplink channel power adjustments by the other WTRU.

As Applicants have argued, the Examiner has equated Applicants' target power metric with Dominique's derivation of a threshold value for each of the primary and secondary channels associated with the UE. The Dominique power threshold does not suggest or teach Applicants' uplink DCH target metrics based on user data on the uplink DCH associated with the uplink SCH.

Although the Examiner has admitted that Willenegger, as modified by Dominique, does not explicitly disclose using the metric in computing UL Channel power adjustments by the other WTRU, the Examiner still has not provided any response to Applicants' argument that Dominique does disclose a shared channel

target metric generator configured to output a respective uplink shared channel target metric derived from each computed uplink dedicated channel target metric for use in computing uplink channel power adjustments by the other WTRU

Accordingly, the Examiner's reliance upon Vanghi to complete his rejection is misplaced. The Examiner state that Vanghi discloses

> [u]sing the target SNR in computing UL channel power increase or decrease by the mobile station.

December 24, 2009 Office Action, page 6. Vanghi though merely discloses inner loop power control and outerloop power control by a base station. Column 34, lines 40 – 56 of Vanghi, cited by the Examiner, discloses only "power control mechanisms [ ] employed in conventional CDMA systems: inner loop power control and outer loop power control." There is no discussion in Vanghi, including the portions cited by the Examiner, regarding a WTRU implementing transmission power control for other WTRUs, including a processor for computing uplink DCH target metrics based on the received uplink user data on the uplink dedicated channel associated with the uplink shared channel used by the other WTRU, or a shared channel target metric generator configured to output a respective uplink shared channel target metric derived from each computed uplink dedicated channel target metric for use in computing uplink channel power adjustments by the other WTRU. Again, contrary

to Applicant's disclosed method, Vanghi simply discloses a base station performing conventional inner loop power control.

Accordingly, Vanghi does not disclose those elements of Applicants' claimed method and apparatus missing from Willenegger and Dominque. Therefore, neither Wilenegger, Dominique, nor Vanghi, alone or in combination with one another disclose Applicants' claims 39 and 42.

Respectfully submitted,

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Enclosures